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PUBLIC AFFAIRS STAFF

Admiral Stansfield Turner, Director of Central Intelligence

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Speech and Questions and Answers before the National Conference of Bar Presidents in Dallas, Texas

August 10, 1979

ADMIRAL STANSFIELD TURNER: I would like this afternoon to talk to you about how and why the United States is bring its intelligence activities under the control of laws and regulations to a degree that has never been seen before in the world of spies.

Are spying and laws compatible? I think they can be. Is it necessary that regulations and oversight weaken our intelligence services? I think not. But intelligence in the United States today is undergoing far-reaching and fundamental changes.

Before I talk specifically about the changes which new legal constraints are bringing to our intelligence activities, let me just outline for you some of the other changes that are taking place, so that you can put this all in a general perspective.

These changes today stem from three basic factors. First, the evolving attitude of the United States towards its role in international affairs. Secondly, the greatly increasing sophistication with which we collect intelligence information. And thirdly, the much greater interest of the American public today in our intelligence activities.

Let me start with the question of the evolving role of the United States, or its evolving perception of its role in world affairs.

I believe that today public attitudes towards foreign affairs are clearly in transition. We're moving from an activist, interventionist outlook to one which recognizes much more clearly the limits on our ability to influence events in foreign countries. We are not becoming isolationist. We are coming to a more valid view of our post-Vietnam paranoia with intervention, a more balanced view of where and what we can do on the international scene.

There's no question that we must always play a major role on that scene, but today it must be gauged much more carefully than ever before.

Look, for instance, at the traditional feeling in the United States that it is important for us to intervene almost anywhere in the world where the Soviets are gaining an advantage. I think this view stems largely from the assumption that once communist influence is established in a country, it is irreversible. But is that view really warranted today?

Look back on the history of Egypt, Indonesia, Sudan, Somalia. These are all countries that were subjected to very

considerable communist influence, and yet have come back to freedom and independence.

Thus, it is increasingly clear today that the United States cannot take sides in all international conflicts. But it must have good intelligence in order to tell us where and when it is in the long-term interest of this country to intervene on the international scene. And when we do take sides, we have the question before us always of whose side should we take.

Traditionally, we have simply favored those whom the Soviets were against. In the last year and a half, however, we've seen at least two instances in which two communist states were pitted against each other. The Soviets took the side of one of them, but in neither case was the opposing side a likely country for us to support.

So, there is another reason why we are constrained in attempting today to influence world events. This is the technological revolution in international communications. Today, whenever there is action on the international scene, it is instantly communicated around the globe, instantly analyzed, instantly judged. The certainty of this spotlight of publicity has become an inhibiting factor for major powers and minor powers.

Thus, our foreign policy moves today must be more subtle, more understanding of events and trends all around the globe.

What these changes in our approach to foreign affairs mean for intelligence is simply that our sphere of interest has vastly expanded. We must be more astute about more areas of the world and better informed about more topics than ever before. We must be concerned, for instance, today with political events, economic trends, food resources, population growth, illegal narcotics, international terrorism, the transfer of American technology illegally, not just military intelligence.

Thus, today, our intelligence organization faces a more demanding time, a more demanding set of requirements than ever before.

The second trend I mentioned is the technological revolution in how we go about collecting our intelligence information. Basically, there are three means of collecting intelligence. The first is photographic, from satellites, from aircraft. The second is what we call signals intercept, intercepting those emissions that are going on right here in this room about us now, some of them military emanations, some of them communications signals. And the third for is what we call

human intelligence, the traditional spy.

Our capabilities in the photographic and signals intelligence areas are growing immensely, thanks to the great sophistication of American industry. There is so much information flowing, in fact, that our real concern, our real problem is how to process, evaluate, and act on this information that we are able to collect.

Interestingly, though, rather than devaluing the importance of the human intelligence agent, these new burgeoning technical capabilities in photographic and signals areas have, in fact, enhanced the importance of human intelligence. Why? Well, because the information that you obtain through these technical devices, generally speaking, tells you something that happened somewhere in the past. And when you give this to a policymaker, he looks you in the eye and he says, "Why did that happen? And what is going to happen next?"

Deducing the intentions, the plans, the incentives of foreign individuals or foreign nations is just the forte of the human intelligence agent.

Thus, today, the challenge before us is not only to be able to absorb and use all of these vast quantities of data we get from photographs and signals, but to be able to meld those two together and, with them, the human intelligence activities. We must be able to orchestrate all of this in a complementary manner so that we can obtain for this country the information it needs to conduct its foreign policy with minimum risk and minimum problems.

I'm sure this sounds logical and simple to you. But as you are aware, the intelligence activities of our country are spread across a number of government agencies and departments, each with its own sets of priorities. We can today no longer absorb and process this vast flow of intelligence efficiently if we adhere to the traditional compartmental and parochial ways of doing business within that bureaucracy. And, accordingly, some fundamental restructuring is taking place.

A year and a half ago, the President signed a new Executive Order which gave to the Director of Central Intelligence new authorities over the budget and the collection activities of all of the national intelligence organizations of our country. The task of developing a sense of teamwork among these various agencies, bureaus and organizations is still evolving. But the process is having a very substantial effect on our whole intelligence organization.

The third element of change I mentioned is the increasing public attention to intelligence activities ever since the

several investigations of intelligence in 1975 and '76. Those investigations brought to our American intelligence activities more public attention than has ever been focused on a major intelligence organization.

That process has, I'm afraid, destroyed some of the support and confidence which the American public have traditionally held for its intelligence services. While today I sense a gradual return of that support and confidence, I also recognize a lingering suspicion as to whether intelligence organizations are invading the privacy of the American citizen. They are not, I can assure you. But we need to continue to reassure the American public to that effect.

And beyond that, enough of the allegations of the past, of the past abuses were correct, even though there was much exaggeration, that we do want stricter controls today. We today have a new set of oversight procedures which serve as a very important check on intelligence activities.

To being with, there is the President himself. He takes a very direct and personal interest in our intelligence activities.

Beyond that, there is an Intelligence Oversight Board, constituted only to look into the legality and the propriety of our intelligence activities and to report only to the President of the United States.

Beyond that, there are two committees of the Congress, each empowered exclusively to conduct oversight of intelligence.

And finally, of course, there is the media, which is more interested and more persevering than ever before today in finding out what is going on in the world of intelligence.

Now, the impact of all this added visibility has been substantial. And frankly, it has been traumatic within the intelligence organizations themselves. And some of the publicity we receive is wanted because it helps to regenerate that public confidence that we are not violated the rights of our citizens. On the other hand, however, much of publicity is unwanted, because it can only be destructive.

This involves the disclosures of intelligence information in unauthorized manners. This is very demoralizing for intelligence services, which have traditionally, and of necessity, operated largely in secret.

If you are a CIA case officer overseas attempting to persuade a foreign person to spy on behalf of this country, perhaps at the risk of his or her life, you must have confi-

dence that you can assure that person that his or her identity will not become public.

Today, while we do and can protect such information, the plethora of unauthorized leaks within our government has created a perception that we cannot hold necessary secrets, and this indeed has hurt our intelligence activities.

As a result, I have proposed a new criminal statute which would make it an offense to disclose the identity of undercover CIA persons or agents whose relationships with the Central Intelligence Agency are deliberately concealed. Our proposal is now undergoing review with the Administration. I hope it will soon obtain approval and then be enacted into law by the Congress. Senator Bentsen of Texas has already introduced his own version of this bill, and several other versions have been introduced in the House of Representatives.

I believe that legislation such as this and another bill curtailing what we are required to provide under the Freedom of Information Act would be most helpful to us.

These are [unintelligible] examples of our increasing interaction with the law. In these instances, in the name of protecting the identities of our people and their sources of information.

Now, it's not always that easy from our point of view. With the increasing legal implications of almost everything we do, the natural tension between the effective administration of justice and the safeguarding of intelligence secrets is bound to surface.

For instance, I hardly need remind you that criminal justice requires that all relative information be made available to the prosecution and the defense. Yet you can appreciate that national intelligence interests often require that evidence derived from intelligence sources not be disclosed. The resulting dilemma in this country is very painful.

You may ask, "Are they really dilemmas?" I say yes. I say when last winter the Attorney General of the United States found it necessary to abort the prosecution of two officials of ITT in order not to disclose intelligence secrets, it was a true dilemma.

Now, there would be no dilemma in such cases only if on the scale of national values every law enforcement interest took precedence over every intelligence interest. In such cases, intelligence information would always be adduced when necessary for prosecution. Or if, on the other hand, law enforcement interests were always subordinated to intelligence interests and

prosecution was aborted whenever intelligence secrets might be disclosed.

Now, clearly, neither of these views is correct. The values are variable and cannot be readily weighed in advance. Each case must be separately judged on its own merits, and intelligence interests must be placed in perspective with other interests of our country, then a decision made as to whether and on what basis to prosecute.

It is the Attorney General of the United States who has the discretion to decide whether prosecution is warranted, and how to go forward. That is not to say, however, that I have no role in influencing that decision when intelligence interests are concerned. On the contrary, I have two necessary tasks.

First, I am responsible for insuring that the Attorney General has all relevant information available to him [unintelligible] to make his decision. Access to information, regardless of its classification, should not be a point of dispute. In my view, the Attorney General has a clear right to review all information, so that his decisions are made with the fullest perspective.

Beyond this, I am responsible for giving to the Attorney General my estimate of the potential impact of the public disclosure of intelligence information relevant to any particular prosecution. Again, I believe that the Attorney General must have this kind of advice if he is going to make sound and balanced decisions.

If it happens that the Attorney General makes a decision to prosecution with which I cannot agree, I must then appeal to the President of the United States and ask him to decide whether the best interests of the country are favored by prosecution or not.

In brief, I cannot frustrate a prosecution simply by withholding secret information. That choice lies with the Attorney General. I can appeal that choice if I do not agree with it.

In the 2 1/2 years which I have been privileged to work on problems like this with our Attorney General, Griffin Bell, we have never had, because of his great cooperativeness, anything but a harmonious resolution of these issues. But they have not been easy for either one of us.

There are, you would appreciate best, fundamental reasons why this issue of disclosure-versus-prosecution presents such difficulties. One is simply the fact that a criminal trial in this country is a public event. Now, I have no quarrel with the constitutional guarantees that make it so. At the same time,

I cannot ignore the fact that the evientiary use of intelligence in a public prosecution results in a high probability that the information will enter the public domain. There are few if any ways to avoid that outcome or to limit the exposure of information to trial participants only.

Other constitutional provisions guaranty the accused broad rights of cross-examination. Rules of procedure confer on the defense wide-ranging pretrial discovery. These features make the judicial process almost as uncertain as it is open.

For example, the ways that defense discovery and cross-examination will be handled do not lend themselves to precise advance measurement. They're unpredictable. So the decision to prosecute is all the more difficult for those who must gauge before the course is set where it may all end.

Again, I am not complaining about any of this or suggesting any radical reforms that would restrict the rights of the accused. I'm only trying to describe to you how it looks from my perspective.

All of this takes on greater force when you consider the necessities of proof under some of the basic criminal statutes related to intelligence. Let us suppose, for example, that a government employee is arrested while trying to deliver a classified document to a foreign agent, and the delivery is frustrated by that arrest. A crime has been committed, nonetheless, under our espionage laws. Yet prosecution would exact an extraordinary price. The government would have to show that the information in that document was so significant, that the national security interests of our country would be severely damaged if it were revealed to a foreign government. That burden of proof would very likely require that we would have to adduce that document in court. And moreover, we would probably have to provide a government witness to testify to its accuracy.

Unfortunately, the U.S. judicial procedures today provide no way for assuring secrecy of such information that might have to be disclosed to the prosecution. The net result in this particular case would simply be that the trial proceedings themselves would have exceeded -- would have succeeded in doing exactly what the defendant was being tried for having attempted and failed to do: that is, disclosing this information. Moreover, in this case, the accuracy of that information would have been attested to by the government in the process.

We have avoided the dilemma that I've just described in a trial just recently. So it can be done, but it is difficult and it is very risky and uncertain, from our point of view.

Thus, we have a real conflict between what is needed

to prosecute effectively and what is needed to protect our sources. The conflict has discouraged exploitation of clandestine sources of information which might detect hostile penetrations of our own government -- in short, the conduct of what we call counterintelligence.

After all, if one must compromise his source of information in order to use that information in the courts, and if one thinks that that compromise might result in the death of his source, there is no way that a CIA officer can conscientiously encourage such a source to uncover counterintelligence information.

This is the kind of issue that so complicates these decisions on whether or not to prosecute.

Another well-publicized problem in trial proceedings is the last-minute discovery blitz, a technique favored by defense counsels in some espionage cases. For example, the case of the United States versus Kampiles last year.

It is unfortunately true that whenever intelligence is involved, it is inviting for a defense attorney to hope to paralyze the prosecution by pressing by more disclosure than he thinks we can possibly admit. Hence, we today are confronted with this problem called gray mail, simply a shotgun approach against which there is no easy counter-tactic.

Judges, of course, are not entirely insensitive to these dilemmas. They will from time to time regulate pretrial discovery in espionage cases, by protective orders, for instance, affording the defendants and defense counsel access to sensitive material, but restricting the freedom they have to disseminate that material further. Unfortunately, the terms of these orders have varied widely, with little apparent relation to the differences in the cases themselves.

To deal in a more orderly fashion with this issue, the Administration last month introduced legislation that would establish a pretrial and a trial procedure resolving questions over the use of classified information in criminal trials. When enacted, the legislation will allow the government to obtain advance rulings on whether classified information is relevant or may otherwise be used or disclosed during a public trial. This will allow the government to determine more clearly whether the needs of national security require dropping a prosecution.

Let me not, however, leave you with an impression that all of the interests of intelligence lie on the side of not disclosing or not prosecuting. We have legitimate interests on both sides of the issue. Our concern is for protecting national secrets, of course; and that is a very genuine

concern. Beyond the harm to individuals, which I have mentioned several times, there is a wide range of clear damage to our national interest when secret information is disclosed.

For instance, negotiations with foreign countries may be frustrated. For instance, our access to further information may be jeopardized. For instance, foreign intelligence services may be unwilling to share information with us if they view us as an information sieve. For instance, the expensive technical collection systems I mentioned earlier can be compromised and frustrated in their capabilities if their characteristics are disclosed publicly.

But even though we in intelligence, keeping those points in mind, are generally inclined, perhaps overly inclined, to hold back from prosecution in order to protect classified information, there are also many cases in which we are intensely interested in proceeding with prosecution. Those that concern us most, of course, are espionage cases. But beyond that, there are those in which there are irresponsible individuals, I would say even traitorous individuals, who deliberately disclose classified information. The seriousness of these losses causes us in the intelligence community to support strongly the prosecution of such people. They, in my view, not only deserve whatever punishment may result from prosecution, but we need to prosecute these offenders in order to deter others.

Thus, we do have an incentive to bend over backwards in releasing information essential to prosecution in such cases.

In the 2 1/2 years that I have been Director of Central Intelligence, I have held my breath a half a dozen times when permitting disclosures in espionage cases.

Other dilemmas we face center on the many rules and regulations recently applied to intelligence activiites, especially those to insure the privacy of American citizens. Because they are new and often complex, and because they must be interpreted in the light of our sometimes unique activities, they have had heavy impact on the speed and the flexibility with which we have been traditionally capable of operating.

Very often, questions of constitutional law have required both the Attorney General's staff and my legal staff to issue legal decisions in the midst of an operational crisis. Let me say that in all cases, the Attorney General and his staff have gone out of their way to give us timely advice and opinion. But still, our options have often been limited becasue of this.

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Let me say, nonetheless, we can, in the intelligence

Let me say, nonetheless, we can, in the intelligence world, only recognize and applaud the overall effort today to insure the constitutional rights of American citizens....

...and when he has to feel a necessity of insuring that every legal standard has been met, there is a temptation to overcaution. In fact, today our operators in the field really feel they cannot conduct operations when there is much of a probability that an American person will be involved. This, in turn, can reduce our flexibility to respond in crisis situations when the lives and the property of American citizens may be at stake.

It is my hope -- and much of this can be assisted by the passage by this Congress of what are known as charters for the intelligence community. This legislation would establish, for the first time, both the authorities for specific intelligence activities and the boundaries within which they must be conducted. Written with care and sensitivity to the kinds of problems we've been discussing, these charters could help resolve some of these problems.

Overreaction, either by trying to turn the intelligence community totally loose or by tying its hands, would be a mistake; on the one hand, inviting the repetition of past abuses; on the other hand, weakening the necessary intelligence capabilities of our country.

After all of these comments, particularly about our problems in the legal arena, let me assure you that, in my view, the intelligence arm of our government today is strong and capable. It is undergoing substantial change, and that is never an easy or placid process in a large bureaucracy. But out of this present metamorphosis is emerging an intelligence organization in which the legal rights of its citizens and the legal constraints on intelligence activities are balanced with a continuing need for this country to gather that information which is essential to the conduct of its foreign policy.

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This is not an easy transition. We are not there yet. But we are moving rapidly and surely in the right direction. And when we reach our goal, we will have constructed a new model of intelligence, a uniquely American model of intelligence suited to the goals and the ideals of this country.

As we proceed down this path, we will need your understanding and your support, particularly in the delicate area of prosecution-versus-disclosure. And it is for that reason that I am grateful that you've asked me to be here today and given me this opportunity to share these thoughts with you.

And I now look forward to responding to your questions.

Thank you.

[Applause]

MODERATOR: Thank you, Stan. It sounds as if spying wasn't as much fun as I thought it was.

[Laughter]

MODERATOR: Admiral Turner has agreed to respond to your questions for a few minutes, and I've reserved the right to terminate the process in order that we may be able to meet the appointments of the afternoon....

MAN: You mentioned the consolidation of the intelligence services. Does that include the ONI and the military, FBI, and all of the...

ADMIRAL TURNER: I mentioned consolidation of the intelligence services. Does that include ONI and FBI, [unintelligible] of Naval Intelligence, and so on?

Yes, in this regard: As the Director of Central Intelligence, I have authority over their budgets and over how they go out and collect information. But very carefully, what I do not have authority over is how they analyze what we have learned. Because the interpretation of intelligence information is always subject to a great deal of uncertainty, and we must be sure that differing views are permitted to come forward.

So, there is control over the expensive items for collecting intelligence; there is not control over the less expensive, less risky material which is evolved in interpreting it.

MAN: Admiral Turner, it's increasingly suggested that a great deal more material is classified than need be. Can you explain to us what process is used to determine how material

should be classified and when it should be declassified?

ADMIRAL TURNER: ...a lot more classified information than there should be, and what's the process for determining what to classify? A very apt and correct point. We do have far too much classification in the government. It is an almost intractable problem to grapple with, but we are working on it in a number of different ways, one of which is the deliberate publication by the Central Intelligence Agency of much more of its product.

Now, we can't publish how we collect information. But at the back of the room, when you leave today, there will be some examples of our unclassified product for the country. And my thought in doing this, in large measure, is by declassifying this, it's easier to protect what remains. And we get people to understand that when you can remove those classified labels, it benefits everybody, us and the public.

We are also in possession, just recently, of a new presidential directive with some very firm guidelines about over-classification and set procedures and time intervals to automatically bring things down.

But it's not an easy task.

MAN: [Largely unintelligible]

ADMIRAL TURNER: What effect has evolved from the criticism of the Central Intelligence Agency having on recruitment?

I'm very pleased to say to you that through the greatest periods of criticism of the agency, the recruitment of young people, particularly from our colleges and universities, has stayed high. They have seen through this and have seen the marvelous opportunities to serve their country in our intelligence organizations. We are not wanting for lack of good recruit candidates today.

You may have seen some publicity we've had in the last few weeks on our new, or relatively new recruiting advertising. We're doing this, in large measure, because we want to be very selective, we want to have a large base from which to draw, and we want to do more than we've done in the past to insure that we are drawing from all sectors of our country, geographically, ethnically, culturally. We want to draw from both sexes, from all races, and from all parts of our country. Only then can we really do the best job of getting the best and the brightest young people into our organization.

MAN: How strong is your Office of General Counsel? How much do you rely on him [unintelligible]?

ADMIRAL TURNER: How strong is our Office of General Counsel, and how much do we rely on him?

Reece (?) mentioned that before the war I went into a liberal arts college, Amherst in Massachusetts. I had the intent of going from there to law school. I didn't realize it was going to take me 30-some years to get to be a lawyer; but I have so much contact with my general counsel, that I practically am going to law class every day.

Seriously, it's a most important position in the Central Intelligence Agency. A staff of lawyers is assigned to him. And we have need of his advice on almost a daily basis -- that is, I do, almost, let alone the entire organization.

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And coming down here on the plane this morning, I had a document that thick from him to read about these charters and the detailed provisions in them.

That's a very critical position, because if we don't write these regulations and these laws in a way that our people can interpret them, a non-lawyer can interpret them, we're really going to hamstring ourselves. And yet we do have to have some form of control.

So he is a key person in our organization, and I work very closely with him, personally.

MAN: Admiral Turner, you commented on the cooperation between your agency and the Attorney General in litigation matters affecting the CIA. Are you able to comment upon how that process was applied in the Snepp case?

ADMIRAL TURNER: How did this coordination between myself and the Attorney General work in the Snepp case?

Snepp was a former CIA employee who wrote a book without giving us the opportunity to review it for classified information, which was part of the contract that every employee signs with us when they come on to duty.

Our relations with the Attorney General were super in that case. I suggested prosecution, and he was willing to stick his neck out and try a new form of prosecution. We talked it out back and forth with our general counsels as to what would be the way to do it, and we tried a non-criminal prosecution there, a violation of contract. And in that circumstance, I did not have to produce the documents. I did not have to produce the documents. I did not have to produce the classified information that might have come out if we'd brought a criminal charge under the espionage laws, as you can see.

So, the teamwork was just great. And we're so pleased that it worked, and have our fingers crossed that the appeals court, having ruled in our favor, that the Supreme Court will [unintelligible].

MAN: Admiral Turner, there was some feeling that we didn't [unintelligible] anticipate what was happening on Iran. So I wonder if you'd like to comment on that. And could you tell us how things have...

[Laughter]

ADMIRAL TURNER: I've had that question before.

[Laughter]

ADMIRAL TURNER: How did things go wrong in Iran?

One of the things that I started to say at the beginning of my remarks was that we have to be better able to look at the long-term trends, we have to be more subtle in exercising U.S. influence abroad.

And, yes, we would like to have predicted the shortterm trends of events in Iran better than we did. But the real measure of our success is: Are we keeping the policymakers advised of the undercurrents, the long-term things on which they can really take effective action?

In this case, we were predicting that there were lots of problems in Iran. We saw problems with political dissidents, economic unrest. religious problems, and so on. What we did not

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We'd like to do better. But I keep saying, when asked this question, that I cannot guaranty that we can always predict coups, revolutions, unusual electoral trends, and so on. But we do hope that we're keeping policymakers advised of the underlying trends behind them. And I believe we're doing a very fine job in that direction.

MAN: Admiral Turner, if your relationship, sir, with the Attorney General is so good, do you have any prognosis at all when and if he is going to either prosecute or dismiss the pending indictments on intelligence officials, so as to remove the interminable [unintelligible] the American public has today

on our entire intelligence system, both domestic and foreign?

ADMIRAL TURNER: I cannot answer that. You must be speaking of FBI intelligence officials, are you?

MAN: Yes, sir, that's what I'm speaking of. It affects the entire intelligence system.

ADMIRAL TURNER: Well, I wouldn't disagree with what you've said, but, unfortunately, I cannot honestly answer your question, since I've not dealt with him on this question of the FBI officials.

And I'm very sad to say that we only have five more days of Griffin Bell. He just has been a tower of strength to all of us in the 2 1/2 years he's been the Attorney General.

I look forward to Ben Civiletti, who certainly has all those same qualities, but we'll all miss Attorney General Bell.

MAN: [Inaudible]

ADMIRAL TURNER: Do I have any reservations about the SALT treaty?

[Laughter]

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ADMIRAL TURNER: My job in the SALT treaty is not to take sides, because the Senate of the United States -- and, of course, the Administration -- want and need to know how well we can check on what the Soviets are doing under the terms of that treaty. And if I take sides on it and express an opinion about it, then the objectivity of my evaluations of how well we can check on it could be questioned.

So we have an ethic in the intelligence community that we abjure being for or against a policy matter like a treaty such as this.

As far as our ability to verify it is concerned, this is a intensely complex technical issue, but it's one on which we have the privilege to give to three committees of the Congress every detail that they have wanted in closed executive session, and I believe they are very well satisfied with what we have been able to adduce for them. What conclusion they are drawing is up to them. They, as your representatives, must take this highly classified information that we provide them on our verification capabilities and translate it into decisions for all of us.

I thank you very much for your attention and for the privilege of being with you today.